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September 10, 2007

By First Class Mail

Hon. Charles L. Brieant
United States District Court
For the Southern District of New York
300 Quarropas Street
White Plains, NY 10604

Re: John Carello v. The City of New Rochelle, The New Rochelle Police Department, P.O. George Rosenbergen, and P.O. John/Jane Does, Docket No. 07 Civ. 2914 (CLB)(MDF)
Our File No.: 07367.00062

Dear Judge Brieant:

We represent the defendants in the referenced action. We are writing to request a conference to resolve a discovery dispute.

Defendant Rosenbergen is raising the defense of qualified immunity. To preserve the ability to raise that defense prior to trial, paragraph 3(d) of the scheduling order requires that we take plaintiff's deposition within 30 days of the entry of the order. We noticed the plaintiff's deposition prior to the end of that period, but we were told that the plaintiff was unavailable because of vacation. Citing these circumstances, we wrote to the Court on August 17, 2007, and requested a 30-day extension of the period in which to take the plaintiff's deposition. A copy of the letter is attached.

Thereafter, I left several telephone messages with plaintiff's counsel in an effort to schedule the plaintiff's deposition. Receiving no response, on August 30, 2007, I wrote to plaintiff's counsel in good faith requesting that he call me to schedule the deposition. A copy of the letter is attached. On September 5, 2007, I called plaintiff's counsel and left yet another voice mail message. To date, I have not heard from plaintiff's counsel, thus necessitating this letter.

I apologize for requesting the Court's valuable time to resolve this minor dispute, but despite taking every possible step to comply with the scheduling order, the plaintiff has failed to cooperate. We are, therefore, compelled to request a conference with the Court to resolve this issue.

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Thank you very much for your consideration of this application.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



Lalit K. Loomba

Cc:

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